

Kevin G. McBride (Ca. Bar No. 195866)
kgmcbride@jonesday.com
Steven J. Corr (Ca. Bar No. 216243)
sjcorr@jonesday.com
JONES DAY
555 S. Flower Street, 50th Floor
Los Angeles, CA 90071
Telephone: (213) 489-3939
Facsimile: (213) 243-2539

James L. Wamsley III
(*admitted pro hac vice*)
jlwamsleyiii@jonesday.com
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114-1190
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

Attorneys for Vizio, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SONY CORPORATION,

Plaintiff,

v.

VIZIO, INC.,

Defendant.

Case No. CV-08-01135-RGK(FMOx)

**VIZIO, INC.'S OPPOSITION TO
SONY CORPORATION'S
REQUEST FOR ORAL
ARGUMENT**

**MAGISTRATE JUDGE: HON.
FERNANDO M. OLGUIN**

**HEARING: 10:00 A.M. ON
SEPTEMBER 2, 2009, AT 312
NORTH SPRING STREET, LOS
ANGELES, CALIFORNIA**

**DISCOVERY CUT-OFF DATE:
NOVEMBER 1, 2009**

**PRETRIAL CONFERENCE DATE:
JANUARY 10, 2010**

TRIAL DATE: JANUARY 26, 2010

1 Defendant and Counterclaimant Vizio, Inc. (hereafter “Vizio”) hereby
2 opposes Plaintiff Sony Corporation’s (“Sony’s”) Request For Oral Argument [Dkt.
3 #96] regarding the parties’ Joint Stipulation Regarding Vizio, Inc.’s Motion To
4 Compel Expert Reports And Depositions, And To Compel Depositions Of Sony
5 Witnesses In The United States [Dkt. #89]. Sony’s request should be denied
6 because oral argument is unnecessary. Sony has not identified any “misstatements”
7 or “new arguments” that warrant additional argument. Moreover, holding oral
8 argument will postpone resolution of the Vizio motion, thereby needlessly delaying
9 the resolution of these issues when time is of the essence under the Court’s
10 discovery schedule.

11 • Sony no longer debates that it must bring its Rule 30(b)(6) deponents
12 to the U.S. Vizio correctly stated that Sony is obliged to make them available in the
13 Central District, where Sony chose to file suit, even though Sony has agreed only to
14 make its 30(b)(6) designees available in the U.S. where they reside. Vizio would be
15 willing to work with Sony in an effort to reach agreement to take the depositions of
16 Sony’s 30(b)(6) U.S.-based designees at a convenient U.S. location.

17 • Vizio’s motion asked the Court to order Sony to produce its Rule
18 30(b)(6) witnesses in the U.S. *with no exceptions*. Sony first concedes that it must
19 produce its 30(b)(6) witnesses in the U.S., but then refuses to designate the
20 inventors--who are the only individuals having knowledge of the critical issues of
21 inventorship, conception and reduction to practice of the alleged inventions of the
22 asserted patents--for deposition. This tactic does not justify Sony’s request for
23 additional argument. Sony cannot refuse to comply with its obligations under the
24 rules and then be heard to insist that its refusal is a basis for oral argument.¹

25 ¹ Sony’s professed inability to understand the term “lead inventor” rings
26 hollow; Sony knows full well that it is obligated under Rule 30(b)(6) to designate
27 an individual knowledgeable regarding inventorship, conception and reduction to
28 practice of the alleged inventions of the asserted patents, *i.e.*, a lead inventor, for
each of Vizio’s 30(b)(6) topics relating to those topics. Sony had no problem
understanding the term “lead inventor” during the meet and confer process when
Vizio requested that they be designated for certain 30(b)(6) topics.

1 • Sony admitted that the parties have discussed the issue of deposition
2 locations continuously since February and March 2009 and expressly identified the
3 parties' earliest discussions as "meet and confers about this issue" (*See* Joint
4 Stip. at 11-12.) Sony now clings to an artificially narrow reading of Local Rule
5 37-1 in a vain attempt to feign surprise about a disputed issue that Vizio correctly
6 stated "has been deadlocked since February 2009." (*See* Supp. Mem. at 5.) Sony's
7 efforts to avoid or delay resolution of this disputed issue should be rejected. It is
8 more clear than ever that the issues in Vizio's motion to compel cannot be resolved
9 without Court intervention.

10 • Sony's attempt to use an aborted meet and confer regarding deposition
11 *scheduling* as a basis for its failure to move for a protective order regarding
12 deposition *location* is off-base. Faced with a motion seeking to compel Sony to
13 produce its witnesses for deposition in the U.S., Sony had the burden to move for a
14 protective order with respect to the location of such depositions. It did not. Its
15 failure to take the proper steps does not warrant additional argument and is alone
16 reason to grant Vizio's motion to compel.

17 • Finally, Sony's purported reservation of space at the United States
18 Consulate in Osaka, Japan is irrelevant to the issues raised in Vizio's motion. The
19 fact that Sony was able to reserve space for depositions in Japan does not mean that
20 Vizio is required to take the depositions there. Sony's contrary claim is a
21 quintessential bootstrap argument: Sony cannot force the depositions to Japan by
22 reserving Consulate time there. If Consulate time were not available, would Sony
23 concede that the depositions should proceed in the U.S.? Moreover, the Consulate
24 time is likely unusable, because the reservation of Consulate time is only the first
25 preliminary hurdle to clear in the burdensome process of taking depositions in
26 Japan. In addition, an appropriate court order must be issued, interpreters, court
27 reporters and videographers must be arranged for in Japan, and special deposition
28 visas must be obtained from the Japanese Consulate for all those involved in the

1 depositions. These hurdles further support Vizio's argument that the depositions
2 should go forward in the U.S. instead.

3 **CONCLUSION**

4 The Court should deny Sony's Request For Oral Argument because Sony has
5 raised no issues warranting additional argument.

6
7 Dated: August 25, 2009

JONES DAY

8
9 By: /s/ Steven J. Corr
Steven J. Corr

10
11 Attorneys for Defendant Vizio, Inc.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

8
9
0
1
2
3
4
5
6
7

8
9
0
1
2
3
4
5
6
7

0
1
2
3
4
5
6
7

0
1
2
3
4
5
6
7

5
4
5
6
7

6
7

7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Executed on August 25, 2009, at Los Angeles, California.

/s/ *Beth A. Marchese*

Beth A. Marchese